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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,767	09/30/2003	Kunio Miyazaki	1150.002	6274

7590 05/05/2004

Sampson & Associates, P.C.  
50 Congress Street  
Boston, MA 02109

EXAMINER
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SINGH, SUNIL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/675,767

Applicant(s)

MIYAZAKI, KUNIO

Examiner

Sunil Singh

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/30/03, 4/23/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

The preliminary amendments filed 9/30/03 and 4/23/04 have been entered.

#### ***Claim Objections***

1. Claim 6 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 6 has not been further treated on the merits.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al. (US 5000616) in view of Yodock, Jr. et al. (US Pub 2003/0185629).

Bell et al. discloses a containment boom comprising a plurality of float units and a coupling portion by which adjacent float units are coupled to one another wherein each of said float unit comprises a float portion (12) having a buoyant force, and a plummet portion (22) positioned under said float portion, said float portion and said plummet portion being adjusted so as to locate a water line to approximate middle position (see Fig. 1) of vertical length of said structure, said coupling portion (30) being flexible (see col. 2 line 30+). Bell et al. discloses the invention substantially as claimed. However, Bell et al. is silent about including a housing. Yodock, Jr. et al. teach a housing (see Figs. 5,6). It would have been considered obvious to one of ordinary skill in the art to

Art Unit: 3673

modify Bell et al. to include the housing as taught by Yodock, Jr. et al. since such a modification protects the containment boom from the effects of weathering.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al. in view of Yodock, Jr. et al. as applied to claim 1 above, and further in view of Tedeschi, Jr. or Memoli (US 3906732, 3958521).

Bell et al. (once modified) discloses the invention substantially as claimed. However, the (once modified) Bell et al. is silent about the coupling having at least one fold.

Tedeschi, Jr. and Memoli both teach coupling having at least one fold (see Fig. 1 and (26)). It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Bell et al. to include at least one fold in his coupling as taught by either Tedeschi, Jr. or Memoli since such a modification would allow for lateral variation and aid in folding and bending.

5. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al. in view of Yodock, Jr. et al. as applied to claim 1 above, and further in view of Chou et al. (US 5509756)

Bell et al. (once modified) discloses the invention substantially as claimed. However, the (once modified) Bell et al. is silent about the coupling having a rail member. Chou et al. teaches coupling having a rail member (see Fig. 3(d)). It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Bell et al. to include the rail coupling as taught by Chou et al. since such a modification would allow for a more effective barrier connection.

Art Unit: 3673

6. Claims 5/1, 5/2, 5/3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell et al. in view of Yodock, Jr. et al./Tedeschi, Jr. or Memoli/Chou et al. as applied to claims 1, 2, 3 respectively above, and further in view of Marquet (US 4627766).

Bell et al. (once modified) discloses the invention substantially as claimed. However, the (once modified) Bell et al. lacks a lower plummet remotely actuated. Marquet teaches a lower plummet automatically actuated (W-4). It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Bell et al. to include the lower plummet as taught by Marquet since such a modification would allow for the containment boom to compensate for the tidal movement. With regards to the limitation of remotely actuating such plummet (anchor), it would have been considered obvious to do so as evidenced by Strange and Lydiard et al. (US Pat 4290714, 5407301) wherein they teach it is known to remotely actuate anchoring means.

### ***Conclusion***

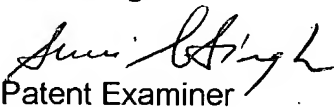
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024. The examiner can normally be reached on Monday through Friday 8:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh

  
Patent Examiner  
Art Unit 3673

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4/30/2004